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Attorneys for Defendant

AmerisourceBergen Corporation

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

v.

EXPRESS SCRIPTS, INC., et al.,

Defendants.

Civil Action No. 05-CV-01714(DMC)(JAD)

ORAL ARGUMENT REQUESTED

Motion Day: May 20, 2013

Document Electronically Filed

**NOTICE OF MOTION OF DEFENDANT
AMERISOURCEBERGEN TO DISMISS
CLAIMS AGAINST IT PURSUANT TO
FED. R. CIV. P. 9(b) AND 12(b)(6)**

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PLEASE TAKE NOTICE that on May 20, 2013, or as soon thereafter as counsel may be heard, Defendant AmerisourceBergen Corporation (“ABC”) shall move in the United States District Court, District of New Jersey, Martin Luther King Building and United States Courthouse, 50 Walnut Street, Room 4015, Newark, NJ 07101, before the Honorable Dennis M. Cavanaugh, United States District Judge, for an Order dismissing the Third Amended Complaint filed by Plaintiff-Relator David Morgan (“Relator”), as against ABC, with prejudice pursuant to Federal Rules of Civil Procedure 9(b) and 12(b)(6).

PLEASE TAKE FURTHER NOTICE that in support of the Motion, ABC shall rely upon the accompanying Brief.

PLEASE TAKE FURTHER NOTICE that ABC requests oral argument if opposition to this Motion is filed.

A proposed form of Order is attached.

Dated: April 16, 2013

Respectfully submitted,

AmerisourceBergen Corporation

By its attorneys,

MORGAN, LEWIS & BOCKIUS LLP

/s/ John P. Lavelle, Jr.

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